

**HAMPTON BOARD OF SELECTMEN
SELECTMEN'S MEETING ROOM
NOVEMBER 5, 2007 – 7:30 PM**

PRESENT: Ben Moore, Chairman
Bill Lally, Vice Chairman
James Workman
Rick Griffin
Fred Welch, Town Manager
Maureen Duffy, Administrative Assistant

REGRETS: Virginia Bridle-Russell

The Board of Selectmen met in a non-meeting with Town Counsel at 7 p.m.

SALUTE TO THE FLAG

Chairman Moore called the meeting to order at 7:30 p.m. and introduced those in attendance.

I. ANNOUNCEMENTS AND COMMUNITY CALENDAR

Mr. Workman announced the Veterans' Day (November 11) memorial starting at 8 a.m. at the Hampton Beach War Memorial. The observance will then continue at the American Legion Post at 11 a.m.

Chairman Moore announced the Jingle Bell Fair on Saturday, November 10 at 9 a.m. at the First Congregational Church. He also announced "All About 'Dags'" (photographic images popular from the 1840's through the 1860s) this Saturday, November 10 at 2 p.m. at the Tuck Museum.

II. APPOINTMENTS

1. ROLAND JANVRIN – TRENCH PERMIT

Mr. Janvrin, owner of RWJ Construction came before the Board to request a trench permit for 119 Kings Highway. The project requires new gas service to be supplied as there currently is no gas line to the existing lot. The existing line is within six inches of the pavement on the east side. It is anticipated that there will be no need to cut the pavement however; in the event that the construction company requires access they are seeking Selectmen's approval. The trench permit is for a two foot patch, if needed.

Mr. Lally MOTIONED to grant the trench permit for Northern Utilities to access the natural gas line at 119 Kings Highway if needed. **Mr. Workman SECONDED.**

VOTE: UNANIMOUS FOR

2. JUDY PARK – SAFE ROUTE TO SCHOOL

Mrs. Park has come before the Board to ask permission to setup and coordinate a “Safe Routes to School” task force. The Safe Routes to School (SRTS) program is a nationwide effort encouraging children in kindergarten through eighth grade to walk or ride bikes to school. Studies indicate that children who gain an appreciation of physical activity are likely to remain active as an adult. Encouraging children to walk or pedal will also reduce traffic congestion around schools and contribute to clean air and a healthier environment.

New Hampshire has been allocated \$1 million per year for five years, most of which will be used to reimburse local expenses. The NH Department of Transportation is participating with support from the federal government under the Federal Transportation Bill (SAFETEA-LU). Mrs. Park explained that the success of the program will depend on local efforts. Participants of the SRTS Task Force can include school administrators, principals, school nurses, physical education teachers, municipal officials, police, regional planning commissions, metropolitan planning organizations, parents, students, safety advocates and any other individuals and community organizations interested in promoting safe walking and biking.

Most of the funding will be for non-infrastructure projects, such as surveys, sponsoring bike rodeos or cycling safety class. Funds can also be used for more detailed surveys and planning work that will lead to application for a more-expensive infrastructure project (i.e. sidewalks).

Mrs. Park has been a member of the Hampton Highway Safety Committee for about 15 years and has been a resident for over 30 years. She is very familiar with Town roadways and is an advocate for making Hampton a safer place. Mrs. Park would prefer that Hampton is proactive rather than react after a tragedy.

Mr. Griffin MOTIONED to grant Mrs. Park permission to create and coordinate a Safe Routes to School Task Force and report back to the Selectmen with recommendations. **Mr. Lally SECONDED.**

VOTE: UNANIMOUS FOR

III. MINUTES – OCTOBER 29, 2007 & NOVEMBER 2, 2007

Mr. Lally noted that he was late for the November 2 meeting but did sign the tax warrant.

The November 2, 2007 minutes stand approved as distributed.

The October 29, 2007 minutes stand approved as distributed.

IV. OLD BUSINESS

1. TOWN MANAGER’S REPORT

Mr. Welch requested that citizens and residents continue to forward their concerns to the Board regarding the operations and services provided by Hampton’s cable supplier. Residents’ comments and communications will be entered into the official record and will be addressed during the re-licensing procedures.

The Town Manager reported that property tax bills have been mailed today.

The Supreme Court has notified the Town that the case of Michael Scanlon & a. vs. the Town on the ZBA authorizations dealing with the re-development of the property formally occupied by the Old Salt on Ocean Boulevard have been upheld by the Court.

The Town Manager noted that the Recreation & Parks sponsored tour of Italy departed successfully on Saturday, November 3, 2007 and will return on Monday, November 12th.

Comcast has notified the Town Manager that they will not be amending their payment schedule to the Town to include a percentage of advertising and other revenues as stipulated in the cable contract.

Mr. Welch noted that there will be no trash pickup on Monday, November 12 in observance of the Veteran's Day holiday. Regular pickup will commence on Tuesday, November 13.

SELECTMEN'S RESPONSE TO THE TOWN MANAGER'S REPORT

Chairman Moore questioned if leaves were picked up today. He noticed some bags have yet to be picked up this evening in his neighborhood.

Mr. Griffin inquired if it is the Town's responsibility to cover the cost of a break in the sewer-line if it is on Town property. Mr. Welch report that it would be the Town's responsibility however, it would need to be confirmed that it is indeed on Town property.

Mr. Workman mentioned that leaves were picked up today.

Mr. Moore noted that the Selectmen have discussed the Comcast contract with the Town Attorney prior to tonight's meeting. The Chairman noted that the contract allows for arbitration on disputes.

Mr. Griffin MOTIONED to proceed with the arbitration process with Comcast as to the advertising revenue issue. **Mr. Lally SECONDED.**

Discussion:

The Town will cover the cost of arbitration and a portion will be paid from the Cable Origination Fund. Attorney Gearreald noted that a portion of the contract calls for arbitration regarding disputes arising under the agreement. He suggested that the Board also include the extra channel matter in the arbitration process. Mr. Welch mentioned that a letter was written to Comcast on April 23, 2007. A reply was received requesting a copy of the station logs to show whether or not the Town uses the channel more than 40% of the time. That information was provided. Today, Mr. Welch has been informed by a Comcast representative that these logs have been misplaced (even though the individual had picked up the documents from the Town hall). Another copy of these logs will be provided when a representative from the management branch meets with the Town Manager next week. Mr. Welch suggested that the Board authorize adding the extra channel to the arbitration in the event that Comcast does not react in an expeditious manner (within 90 days).

MOTION AMENDED (with the permission of Mr. Griffin and Mr. Lally) to include the additional channel issue in the arbitration process

VOTE: UNANIMOUS FOR

Mr. Moore noted that a public hearing has been scheduled for November 19, 2007 for a Community Development Block Grant to Foss Manufacturing.

2. PRIVATE ROADWAY SERVICES/ESTABLISHING EMERGENCY LANES

Chairman Moore noted that the Selectmen made a motion on July 23, 2007 to discontinue snow plowing private roadways (that are currently being plowed) as of May 30, 2008

Town Attorney Gearreald had drafted a letter for the Board to review. The letter notifies property owners that the plowing of private roadways will cease after May 30, 2008 as well as identifies and describes two options that property owners may want to consider. The first option outlined in the letter is the establishment of an emergency lane which prohibits parking in specified areas. It is also a cumbersome method as all people and/or organizations with vested interest must agree to the street being designated as an emergency lane. The second option is to submit a petitioned article to see if the Town will accept their private roadway at the March 11, 2008 vote.

Mr. Griffin asked how many of the roadways are at the beach. Attorney Gearreald said that the majority are at the beach.

The Town Manager noted that there are 29 private streets being plowed. He also stated that a petitioned article is the easiest and safest process for people to have their road plowed.

Mr. Workman MOTIONED to authorize the Town Manager to notify residents on the private roadways (currently being plowed) that snow plowing will end after May 30, 2008. **Mr. Lally SECONDED.**

Discussion:

Letters shall be sent within the week so that residents have enough time to submit a petitioned warrant article asking the townspeople to accept their street as a public roadway.

**VOTE: 3 FOR
OPPOSED - Griffin**

Mr. Lally noted that other Boards of Selectmen have discussed this matter in the past and it is time that it be addressed rather than ignored.

3. GENERAL WARRANT ARTICLES

Mosquito Control

Chairman of the Mosquito Control Committee, Ann Kaiser addressed the Board. She thanked the Selectmen for putting forward this article so that the Committee did not have to submit a petitioned article. Mrs. Kaiser said that she is comfortable with going forward with the proposed \$50,000 for the purpose of providing full larviciding of mosquito breeding area in Hampton during the months of June through September 2008.

The State also provides funding for a portion of the spraying in an effort to control disease borne mosquitoes.

Mr. Griffin MOTIONED to move the Mosquito Control article to the warrant. **Mr. Lally SECONDED.**

VOTE: UNANIMOUS FOR

Bike Path

Chairman Moore mentioned that a representative from the Rockingham Planning Commission is willing to discuss the history and intention of the bike path at next week's meeting. He requested that the item be postponed until next week.

G.A.S.B. 34

Since 2003 Hampton has received a negative report from the auditor because the town is not GASB 34 compliant.

Chairman Moore explained that the purpose of GASB 34 and that it is to bring government accounting closer to the methods used in the private sector.

Mr. Lally MOTIONED to move the GASB 34 article to the warrant. **Mr. Workman SECONDED.**

VOTE: UNANIMOUS FOR

Social Security Exclusion:

Mr. Welch explained that in accordance with the Social Security Independence and Program Act of 1994 services performed by election officials and workers (i.e. Ballot Clerks) for each calendar year in which remuneration paid for such services is less than \$1,300 annually and that such exclusion shall increase or decrease automatically in accordance with changes in the sum authorized under the Social Security Independence and Program Act. This warrant would assist those who help out at Town meetings.

Mr. Workman MOTIONED to move the Social Security Exclusion article to the warrant. **Mr. Lally SECONDED.**

VOTE: UNANIMOUS FOR

Amusement Devices Ordinance

The last time fees were adjusted for amusement devices was in 1976. The proposed article is to make certain that the Town law is up-to-date regarding these types of devices. The License Fee has been set at \$100 per year for a license covering one to three amusement devices and for each additional device shall pay a fee of \$10/year. A license from the Town must be affixed on all amusement devices. The ordinance may be amended by Town vote only.

Mr. Workman expressed his concern regarding the length of the warrant. Mr. Moore shares the same concern however believes that the articles being proposed need to be addressed.

Applicants for an amusement device license will undergo a criminal background check.

Mr. Workman MOTIONED to move the Amusement Device Ordinance article to the warrant. **Mr. Lally SECONDED.**

VOTE: UNANIMOUS FOR

Open Container Ordinance

Mr. Welch reported that the Police Department is pleased with the proposed article as it would provide them with a clear and concise law that would allow them to enforce. The proposed penalty shall be fined not less than \$100 nor more than \$250.

Mr. Workman MOTIONED to move the Open Container Ordinance article to the warrant. **Mr. Lally SECONDED.**

Discussion:

Mr. Workman noted his concern regarding the length of the warrant.

VOTE: UNANIMOUS FOR

Noise Ordinance

The Town Manager noted that there have been numerous complaints about noise levels within the Town. In some cases people are taking advantage of the lack of ordinance. There have been reports of construction work being done as early as 3:00 o'clock in the morning in effort to fuel the feud with their neighbors.

The ordinance is to deal with unnecessary noise. In addition the ordinance includes no construction (except in the case of emergency) before 7:00 o'clock in the AM or after 7:00 o'clock in the PM, Monday through Friday. There shall be no construction before 9:00 o'clock in the AM or after 5:00 o'clock in the PM on any weekend or holiday.

Chairman Moore asked how the level of noise is measured and determined as unnecessarily loud. Mr. Welch said that it is very difficult and that special equipment to measure noise levels may need to be purchased in the future. The intention of the ordinance is to address the issue of noise in Hampton.

Mr. Griffin MOTIONED to move the Noise Ordinance article to the warrant. **Mr. Workman SECONDED.**

VOTE: UNANIMOUS FOR

Fish House Articles

Three articles were presented to the Selectmen. The first one deals with permitting the Town to keep the Mace Fish House at Ruth Stimson Park. The second article asks voters to consider purchasing the Cropper Fish House and allow this replica to remain at Ruth Stimson Park. The third article pertains to allowing Mr. Cropper keeping the house at the Park even though it is no longer being used by fishermen whose principal means of livelihood is fishing, so long as the house is used for storage and not commercial purposes.

Mr. Griffin MOTIONED to move the "first" Fish House article (pertaining to the Town keeping the Mace Fish House at Ruth Stimson Park) to the warrant. **Mr. Workman SECONDED.**

**VOTE: 3 FOR
OPPOSED - Lally**

The second and third article will be postponed until a later date when there is a confirmed dollar figure.

District Court Bonding

The article deals with raising and appropriating funds to acquire land and to construct a district court house. Funds for the court would be acquired by the issuance of serial bonds or notes for a period not to exceed 30 years. A figure has yet to be determined. Article will be discussed at a later date.

Lamprey Health Care Request

The Town Manager received a letter from Lamprey Health Care indicated that they would like to seek \$200 over the sum previously approved by the 2007 annual town meeting. It was communicated by telephone that the organization is planning on submitting a petitioned warrant article.

Mr. Workman MOTIONED to deny the increase as a petitioned article as it is expected to be submitted. **Mr. Griffin SECONDED.**

VOTE: UNANIMOUS FOR

Child & Family Services

Mr. Lally MOTIONED to move the Child & Family article to the warrant. **Mr. Workman SECONDED.**

VOTE: UNANIMOUS FOR

Seacoast Visiting Nurses

Mr. Griffin MOTIONED to move the Seacoast Visiting Nurses article to the warrant. **Mr. Lally SECONDED.**

VOTE: UNANIMOUS FOR

OTHER OLD BUSINESS

Mr. Workman MOTIONED to appoint Mr. Griffin to the Energy Committee as the Selectmen's Representative. **Mr. Lally SECONDED.**

VOTE: UNANIMOUS FOR

Mr. Lally has contacted most people on the Solid Waste & Recycling Committee. He is planning on arranging a meeting in the near future.

Mr. Workman asked about the status of the bench along Mill Road. Mr. Welch reported that it was delivered today and will be set tomorrow.

Mr. Griffin announced that he will be unable to attend the Budget Committee meeting tomorrow evening and will be contacting Mrs. Bridle-Russell to determine if she is interested in attending on his behalf.

IV. NEW BUSINESS

1. BIKE TOUR PERMISSION

The Fire and Police Chiefs have indicated that they have no concerns regarding the event.

Mr. Workman MOTIONED to permit the May 4, 2008, American Diabetes Association Tour de Cure cycling event as presented. **Mr. Lally SECONDED.**

VOTE: UNANIMOUS FOR

2. TRANSFER OF PROPERTY – 50 ANCIENT WAY

Town Attorney Gearreald noted that the Rockingham Probate Court recently granted William Pizzano the authority to transfer Mrs. Pizzano's (as she is in a nursing home) interest in the real estate located at 50 Ancient Way and her interest in a lease with the Town of Hampton for the land that it is sitting on, to her husband, William Pizzano. The end result will be that Mr. Pizzano will remain as sole lessee.

Mr. Griffin MOTIONED to permit the transfer as requested to Mr. Pizzano. **Mr. Lally SECONDED.**

Discussion:

Town Manager Welch noted that the transfer does not change the terms of the lease.

VOTE: UNANIMOUS FOR

3. AUTHORIZE TOWN MANAGER TO SIGN NH DES GRANT

Mr. Workman MOTIONED to authorize the Town Manager to sign and act on behalf of the Town of Hampton in negotiating for and accepting any and all State Aid payments in connection with sewage disposal facilities. **Mr. Griffin SECONDED.**

VOTE: UNANIMOUS FOR

4. APPOINT TOWN MANAGER AND PUBLIC WORKS DIRECTOR TO THE ESTUARY ALLIANCE FOR SEWAGE TREATMENT

Mr. Griffin MOTIONED to appoint Public Works Director John Hangen and Town Manager Fred Welch to the Estuary Alliance for Sewage Treatment. **Mr. Workman SECONDED.**

VOTE: UNANIMOUS FOR

5. TOWN REPORT – VENDOR, THEME, DEDICATION, BOS PHOTO

Administrative Assistant Maureen Duffy provided an update for the 2007 Town Report.

Bids for a similar style report as last year (color front page and perfect bound) were requested to be submitted to the Town Manager by November 2. Eight bids were received and are still under review.

A total of 1,800 reports will be printed (50 more than last year).

Ms. Duffy asked the Board if they are interested in dedicating the Town Report to any particular individual. In addition she also asked if the Selectmen would like to consider a specific theme.

OTHER NEW BUSINESS

Mr. Lally MOTIONED to appoint Dennis Kepner to the Solid Waste & Recycling Committee. **Mr. Workman SECONDED.**

VOTE: UNANIMOUS FOR

The Winnacunnet High School (WHS) football team made the playoffs. Superintendent Jim Gaylord requested permission to hang a sign across Lafayette Road in support of the team.

Mr. Workman MOTIONED to hang the WHS sign across Lafayette Road. **Mr. Lally SECONDED.**

VOTE: UNANIMOUS FOR

VI. CONSENT AGENDA

None

VII PUBLIC COMMENTS

Kevin Sullivan (21 Cole Street) voiced his concerns about the Selectmen's decision to cease plowing on private roadways. He pointed out that many of the private roadways have very few people living in there in the winter, leaving the financial burden up to the remaining residents. Mr. Sullivan does not believe the proposal is a reasonable solution and there must be another way. He asked if Mr. Moore (NH Representative) had submitted a Legislative Service Request (LSR) to the legislature in attempt to rectify the situation. Mr. Moore explained that after consulting with the Manager and Town Counsel it was determined that an LSR would not solve the problem. There was a way to minimize the amount of paper work but elected not to submit a LSR. Mr. Sullivan noted that the majority of the property owners in the beach area do not have the right to vote in Hampton. He also pointed out that these discussions are occurring when the majority of the property owners are not around in the winter months.

Bob Ladd (7 Cutler Avenue) noted that residents along private roadways pay the same amount of taxes. He is not pleased with the Selectmen's decision tonight and believes that the majority of voters will not support the financial burden of adopting private roadways. He mentioned that when purchasing property it is rare for individuals to be made aware that the property is on a private roadway. By the Town not addressing the issue for 40 years has affectively impaired the ability to prove the existence of the roads prior to 1968. The fire lane would have been an option if the Town could have had the legislation amended to permit plowing. He assured the Board that the result of tonight's decision will ultimately find its way to the Rockingham Superior Court. Mr. Ladd asked the Board to revisit the private road subject to initiate a program that works for everyone.

Bill Bowley (197 Towle Farm Road) asked if the Town would be responsible for taking over private roadways in their current condition. The Town Manager confirmed that as being true. Mr. Bowley noted that repairing some of the private roadways will cost the Town significant amounts of money to repair. Mr. Bowley asked about condos roadways and if that would qualify. Mr. Welch said that the condo developments that have private roads would have to undo the condo documents with the Attorney General's office. They would also have to file new documents and go through the condo project again with the Planning Board. Mr. Welch noted that the Supreme Court made a law and some of the towns in New Hampshire have not complied. By law the Town must enforce the statute. Mr. Bowley asked if picking trash up is a violation of the law. Mr. Welch said it was not as it is considered a health issue.

Elizabeth Webb (11 Windmill Lane) mentioned that she went through the emersions course in town planning. She noted that Plan NH suggested that the Town narrow Winnacunnet Road because it is too wide. Mrs. Webb agrees with Mrs. Park that obesity is becoming a national problem and children need a safe place to walk. Mrs. Webb also pointed out that many adults cycle to their workplace or for exercise. She also pointed out that the downtown is growing and it would be nice if more people could come through that area slow enough to see what Hampton has to offer. The final point Mrs. Webb mentioned was that Hampton representatives agreed to be part of the scenic byway which includes the bike loop.

VIII. CLOSING COMMENTS:

None

IX. ADJOURNMENT

Mr. Lally MOTIONED to adjourn at 9:41 p.m. **Mr. Workman SECONDED.**

VOTE: UNANIMOUS FOR

Chairman